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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,577	01/18/2002	Brent Magouirk	P68364	7360
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HERSHKOVITZ & ASSOCIATES 2845 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER LOFTIS, JOHNNA RONEE	
			ART UNIT 3623	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/052,577	Applicant(s) MAGUIRK ET AL.	
	Examiner Johnna R. Loftis	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. - See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/5/07 has been entered.

Response to Arguments

2. Applicant's arguments filed 10/5/07 have been fully considered but they are not persuasive. Applicant's arguments regarding new claims 21-23 are addressed in the rejections below. With respect to arguments regarding claims 1-20, examiner would like to clarify statements in the advisory action mailed 8/20/07. When referring to "cited portions", Examiner was referring to column 3, lines 9-40 of Geerlings (the cited portion for the claim limitation including non-purchasers). If this section is read in its entirety, it is apparent that the data that is included in the analyzation includes product category interest (non-purchase activity), i.e., the customer has not purchased this item and it only interested. In addition, Geerlings includes non-transactional information in the analyzation of historical interaction to, taken directly from Geerlings, "group like people into segments which are defined to respond well to a specific marketing or relationship campaign designed to achieve certain marketing goals (column 3, lines 30-34). The new limitations of claims 1, 17 and 20 are addressed in the rejections below.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-8, 11-15 and 17-23** are rejected under 35 U.S.C. 102(b) as being anticipated by Geerlings, US 5,956,693.

As per **claim 1**, Geerlings teaches statistically analyzing a collection of data representing historical interactions with a plurality of previous customers including at least one non-purchaser (column 3, lines 9-40 – customer purchases and other shopping activity are tracked to segment customers and enhance marketing communication; specifically, product category interest is included in analyzing behavior to determine marketing campaigns to achieve marketing goals); developing at least one recommended action item to be taken with respect to a current customer based on results of the statistical analysis (column 4, line 58 – column 5, line5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent); automatically updating an electronic schedule with at least one task representing the at least one recommended action item (column 4, line 58 – column 5, line5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent); wherein at least one of said at least one non-purchaser is other than

said current customer (column 3, lines 9-40 – inherently complaints include those complaints of prior customers contacting the system to complain about a prior transaction and not necessarily making a purchase).

As per **claim 2**, Geerlings teaches developing more than one recommended action item (column 5, lines 32-35 – the merchant schedules transmitting communications on recurring basis and column 6, lines 40-42 – reference is made to sending different communications to the same customer); and automatically updating the electronic schedule with more than one task, wherein the electronic schedule is updated with a task that corresponds to each of the recommended action items (column 5, lines 32-35 – the merchant schedules transmitting communications on recurring basis)

As per **claim 3**, Geerlings teaches statistically analyzing a collection of data representing historical interactions with a plurality of previous customers that include at least one purchaser and at least one-non purchaser (column 3, lines 9-40 – customer purchases and other shopping activity are tracked to segment customers and enhance marketing communication, included is purchasing data and a consumer's product category interest, i.e., a consumer is only interested in a product, no purchase made).

As per **claim 4**, Geerlings teaches developing at least one recommended action item to be taken with respect to a current customer based on at least one rule that is applied to the collection of data representing historical interactions with the plurality of previous customers (column 4, line 58 – column 5, line5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent,

rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer).

As per **claim 5**, Geerlings teaches developing at least one recommended action item to be taken with respect to a specific current customer based on a determination that the collection of data representing historical interactions with the plurality of previous customer shows that the specific current customer has not been contacted for a predetermined amount of time (column 5, lines 14-19 – the system analyzes how long ago a customer purchased a product in order to plan communication; if it has been more than 60 days since the purchase, communication is planned).

As per **claim 6**, Geerlings teaches determining at least one pattern demonstrated by a group of the plurality of previous customers (column 5, lines 19-24 – customer data is analyzed for trends, i.e., a customer's 10th purchase from the merchant).

As per **claim 7**, Geerlings teaches determining at least one trend based on environmental data characteristics (column 5, lines 6-9 – any combination of criteria based on age, gender, geographical location, shopping activity may be used to target the customer).

As per **claim 8**, Geerlings teaches determining at least one trend based on an environmental data characteristic selected from the group consisting of product type, product cost, customer target cost, customer gender, customer age, salesperson's gender, the weather and salesperson's age (column 5, lines 6-9 – any combination of criteria based on age, gender, geographical location, shopping activity may be used to target the customer).

As per **claim 11**, Geerlings teaches determining the recommended action item includes selecting an appropriate task type (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the

plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent, rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer).

As per **claim 12**, Geerlings teaches determining the recommended action item includes selecting an appropriate task type selected from the group consisting of sending flowers, send an email, contacting by telephone, sending a gift, sending a newsletter and sending a gift certificate (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent, rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer).

As per **claim 13**, Geerlings teaches the recommended action item includes selecting a timing and frequency for the at least one task (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent).

As per **claim 14**, Geerlings teaches statistically analyzing a collection of data representing historical interactions between a single sales entity and a plurality of previous customers (column 3, lines 9-40 – customer purchases and other shopping activity are tracked by a merchant to segment customers and enhance marketing communication)

As per **claim 15**, Geerlings teaches statistically analyzing a collection of data representing historical interactions between a plurality of sales entities and a plurality of previous customers (column 16, lines 13-34 – different branches, departments and/or sites of the company utilize the system as though they are separate merchants)

As per **claim 17**, Geerlings teaches statistically analyzing a collection of data representing historical interactions with a plurality of previous customers including at least one non-purchaser (column 3, lines 9-40 – customer purchases and other shopping activity are tracked to segment customers and enhance marketing communication; specifically, product category interest is included in analyzing behavior to determine marketing campaigns to achieve marketing goals); developing at least one recommended action item to be taken with respect to a current customer based on results of the statistical analysis (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent); and performing a task representing the at least one recommended action item (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent) ; wherein at least one of said at least one non-purchaser is other than said current customer (column 3, lines 9-40 – inherently complaints include those complaints of prior customers contacting the system to complain about a prior transaction and not necessarily making a purchase).

As per **claim 18**, Geerlings teaches performing the task in response to a user directive (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent, rules for sending offers are based on the product purchased, i.e., if a customer purchases a certain appliance and extended warranty offer is sent to the customer).

As per **claim 19**, Geerlings teaches automatically performing the task (column 4, line 58 – column 5, line 5 – customer activity is analyzed and a plan is formulated by the merchant for desired customer communications, the plan including the desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent).

As per **claim 20**, it is the system with means for performing the method of claim 17. Since Geerlings teaches a computer system wherein customer data is analyzed to develop a plan for targeted communication the same rejection as applied to claim 17 is applied to claim 20.

As per **claim 21**, Geerlings teaches data representing historical interactions with the plurality of previous customers including at least one non-purchaser are client ticket sessions (column 3, lines 23-40 – product category interest is tracked for use in determining marketing activity; column 4, lines 18-31 – customer visits or communications are stored in a marketing database for analyzation to determine effective marketing strategy).

As per **claim 22**, Geerlings teaches data representing historical interactions with the plurality of previous customers including at least one non-purchaser are client ticket sessions (column 3, lines 23-40 – product category interest is tracked for use in determining marketing

activity; column 4, lines 18-31 – customer visits or communications are stored in a marketing database for analyzation to determine effective marketing strategy).

As per **claim 23**, Geerlings teaches data representing historical interactions with the plurality of previous customers including at least one non-purchaser are client ticket sessions (column 3, lines 23-40 – product category interest is tracked for use in determining marketing activity; column 4, lines 18-31 – customer visits or communications are stored in a marketing database for analyzation to determine effective marketing strategy).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 9 and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Geerlings, US 5,956,693.

As per **claim 9**, Geerlings teaches scheduling desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent based on the product purchased but does not explicitly teach automatically rescheduling the task if it is not performed as scheduled. Geerlings however teaches generating trigger statements wherein a criterion is set that triggers an action, i.e., send a communication after a predetermined amount of time. In view of the triggers in Geerlings, official notice is taken that it would have been obvious

to one of ordinary skill in the art at the time of the invention to generate a trigger wherein if a communication is not sent as scheduled, i.e., network error, the communication is rescheduled to be sent. This would ensure communications to customers are sent regardless of any glitch in the system.

As per **claim 10**, Geerlings teaches scheduling desired communication (mail, email, internet, fax, etc.) and the date or timing of when the communication is to be sent based on the product purchased but does not explicitly teach automatically re-assigning the task if it is not performed as scheduled. Geerlings however teaches generating trigger statements wherein a criterion is set that triggers an action, i.e., send a communication after a predetermined amount of time. In view of the triggers in Geerlings, official notice is taken that it would have been obvious to one of ordinary skill in the art at the time of the invention to generate a trigger wherein if a communication is not sent as scheduled, i.e., network error, the communication is rescheduled to be sent. This would ensure communications to customers are sent regardless of any glitch in the system.

7. **Claim 16** is rejected under 35 U.S.C. 103(a) as being unpatentable over Geerlings, US 5,956,693, further in view of Kramer et al, US 6,327,574.

As per **claim 16**, Geerlings does not explicitly teach statistically analyzing a collection of data that has been stripped of client confidential information and represents historical interactions between a plurality of sales entities and a plurality of previous customers. However, Kramer et al teaches removing confidential consumer information while still allowing targeted marketing to take place. It would have been obvious to one of ordinary skill in the art at the time

of the invention to incorporate the removal of confidential consumer information, as a way to ensure customer information will not end up in the wrong hands.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yoo et al, US 7,146,416 – web site activity monitoring system with tracking by categories and terms

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/052,577
Art Unit: 3623

Page 12

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/JL/
10/29/07


BETH VAN DOREN
PRIMARY Examiner
AU 3623